



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON**  
ATTORNEY GENERAL

July 2, 1962

Honorable J. W. Edgar  
Commissioner of Education  
Texas Education Agency  
Austin, Texas

Opinion No. WW-1371

Re: Whether it is legally possible for a school district board to set the filing deadline for school trustee elections at 4:30 p.m. rather than at midnight.

Dear Dr. Edgar:

You request the opinion of this office on the following question: May the board of an independent school district set the filing deadline for a school trustee election pursuant to Article 2745c, Vernon's Civil Statutes, at 4:30 p.m. of the last day of the filing period?

Section 1 of Article 2745c, Vernon's Civil Statutes, in part provides:

"In all elections for the office of county school trustee or trustee of any school district, however created or designated, the applications of candidates for a place on the ballot shall be filed not less than thirty (30) days prior to the day of the election and the ballots shall be printed not less than twenty (20) days prior to the day of the election. . . ."

Statutory provisions fixing the time for the filing of applications are mandatory. The general rule is that an instrument is not "filed" until it is delivered to the proper officer. See Attorney General's Opinion WW-75, citing Burroughs v. Lyles, 142 Tex. 704, 181 S.W.2d 570 (1944) and McWaters v. Tucker, 249 S.W.2d 80 (Civ.App. 1952).

Article 4.10 of the Texas Election Code, in reference to the filing of an application provides: "Such application must be filed not later than thirty (30) days before any such special election. . . ."

This provision of Article 4.10 was held to fix midnight of the 31st day preceding the election (not counting the day of the election) as the deadline for candidates to file for a place on the ballot. Attorney General's Opinions WW-38, WW-46. Because the language of Article 4.10 of the Election Code, in this

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respect, is identical for all practical purposes with the language fixing the time for filing application for a place on the ballot in Article 2745c, we hold in this opinion that the above quoted part of Article 2745c fixes midnight of the 31st day preceding the election as the deadline for candidates to file for a place on the ballot for the office of county school trustee or trustee of any school district. We also hold that the provision fixing the filing deadline is mandatory. Attorney General's Opinions R-1164, O-2298, O-2486, O-4455 and WW-75 also support the above conclusion.

SUMMARY

Application for a candidate to file for a place on the ballot in an election for the office of county school trustee or trustee of any school district pursuant to Article 2745c, Vernon's Civil Statutes, must be filed not later than midnight of the 31st day preceding the election (not counting the day of election). This requirement is mandatory.

Yours very truly,

WILL WILSON  
Attorney General of Texas

By

  
F. R. Booth  
Assistant

FRB:ms

APPROVED:  
OPINION COMMITTEE  
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REVIEWED FOR THE ATTORNEY GENERAL  
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